

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL
ORIGINAL

In the Matter of)
)
Amendment of the Commission's)
Rules to Establish New)
Personal Communications)
Services)
)

General Docket No. 90-314

RECEIVED

JAN - 3 1994

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

JOINT COMMENTS

Advanced MobileComm Technologies, Inc. ("AMT") and Digital Spread Spectrum Technologies, Inc. ("DSST"), by their counsel and pursuant to Section 1.429 of the Commission's Rules, hereby submit their Joint Comments on the Petitions For Reconsideration of the Second Report and Order, 58 Fed. Reg. 59174 (November 8, 1993) in the above-captioned Docket.

In response to its Second Report and Order, the FCC has received in excess of sixty Petitions For Reconsideration collectively requesting that the Commission revisit virtually every issue decided to date in this proceeding. While certain of the Petitioners¹ argue that the 30 MHz PCS licenses are unsupported by the record in this Docket, others² maintain that the 10 MHz assignments are unsupported or otherwise not in the

¹See, e.g., Petition For Reconsideration of Nextel Communications, Inc. ("Nextel") at 8; Petition For Reconsideration of the Cellular Telecommunications Industry Association ("CTIA") at 3; Petition For Reconsideration of George E. Murray ("Murray") at 8.

²See, e.g., Petition For Reconsideration of Bell Atlantic Personal Communications, Inc. ("Bell Atlantic") at 5-6; Petition For Reconsideration of BellSouth Corporation ("BellSouth") at 17-18.

No. of Copies rec'd
List ABCDE

244

public interest. Although generally agreeing that the FCC's allocation of 160 MHz to PCS is based upon substantiated need, the Petitioners collectively request a dizzying array of modifications to the allocation decision in the Second Report and Order, ranging from a proposed allocation of only 10 MHz licenses to an allocation of only 40 MHz licenses, with many permutations in between these extremes. The Petitioners, in short, reflect no consensus on the appropriate direction to be taken by the Commission on reconsideration.

The allocation decision in the Second Report and Order reflected a balancing of many technical, regulatory and policy issues. The parameters guiding that decision were the four principal goals that have been articulated by the Commission throughout the course of this Docket: (1) universality of service, (2) speed of deployment, (3) diversity of services, and (4) competitive delivery. Second Report and Order at para. 5. Consistent with these parameters, and given the divergent visions of PCS expressed by the many parties participating herein, the FCC has attempted to craft service rules that flexibly accommodate the provision of a "family" of emerging PCS services within the PCS spectrum allocation.

In AMT's and DSST's view, the allocation decision reflected in the Second Report and Order represents a reasoned balancing of the regulatory, policy and technical considerations that have received a full airing in this Docket. AMT and DSST thus do not believe that substantial redrawing of the allocation

decision on reconsideration is required or would likely result in an allocation that would better serve the public interest.

AMT and DSST believe that the fine-tuning of the allocation decision through the adoption of proposals to permit the geographic and spectrum partitioning of PCS licenses would increase the flexibility of PCS licensees to timely respond to market conditions which, in turn, should allay concerns that the initial allocation decision may not exactly match initial market conditions.³

AMT and DSST, in particular, do not agree with those Petitioners that suggest that the allocation of any PCS licenses greater than 10 or 20 MHz will disserve the public interest. Nor do AMT and DSST agree with those Petitioners that suggest that the 10 MHz allocations may become "orphan" spectrum blocks bereft of competitive viability or substantial equipment options. To the contrary, the record in this Docket clearly evidences a strong interest in the provision of many forms of PCS services, with differing spectrum and market requirements.

In the former case, the "big" PCS licenses clearly will enable the provision of PCS service from the inception with system capacity fully comparable to that available from cellular licensees. The two 30 MHz PCS allocations thus serve the valid and necessary purpose of achieving a reasoned competitive equipoise between the "big" PCS and cellular carriers.

³See, e.g., Petition For Reconsideration of McCaw Cellular Communications, Inc. ("McCaw") at 6-8; Petition For Reconsideration of PCS Action, Inc. ("PCS Action") at 9.

In the latter case, the 10 MHz PCS licenses almost universally have been recognized as facilitating the provision of many specialized or niche PCS applications. AMT and DSST have advocated throughout the course of this Docket the adoption of service rules that would accommodate the provision of these specialized services, and identified, among others, emerging health care and home care, personal and public safety and educational applications. In their August 25, 1993 Joint Petition For Further Rulemaking, AMT and DSST submitted a Report of Hatfield Associates, Inc. ("HAI") entitled "An Analysis of the Need for Specialized PCS Systems" describing these services in detail. In their May 1, 1992 Request For Pioneer's Preference in this Docket, AMT and DSST, indeed, submitted the results of an earlier HAI study documenting a demand for 40 MHz to satisfy a single specialized application -- the wireless PBX. AMT and DSST, in addition, submitted in their October 8, 1993 letter to this Docket the expressions of interest in the provision of specialized PCS equipment and services from a number of smaller companies.

Accordingly, although specialized PCS services may be conceptually smaller in scope than big PCS, AMT and DSST caution against marginalizing consideration of the needs of these services in the allocation decision. Indeed, AMT and DSST believe that these specialized services constitute the true "pent up" and unserved demand for PCS. To this end, portable telephone services in fact generally are available today from the cellular

carriers while specialized portable applications (including health care, public safety and educational services) largely are unavailable. In addition, the creation of a robust specialized PCS marketplace will provide a natural entry point in the PCS marketplace for smaller entrepreneurial entities as well as a test bed for deployment of emerging services and technologies.

Moreover, as noted by the Commission in the Second Report and Order (at para. 57), AMT and DSST have developed a highly spectrally efficient PCS architecture employing Synchronous Code Division Multiple Access ("S-CDMA")/Frequency Division Multiple Access ("FDMA")/Time Division Duplexing ("TDD") technology that will offer six times the system capacity of the Digital European Cordless Telephone Standard. AMT and DSST thus believe that the 10 MHz PCS allocations ultimately will offer effective system capacity well in excess of that available to the analog cellular systems in operation today. In AMT's and DSST's view, the allocation decision in the Second Report and Order in fact will spur the development of even more spectrally-efficient PCS technologies as the licensees of the 10 MHz systems seek to capture larger markets and greater market shares.

For these reasons, AMT and DSST believe that the allocation decision of the Second Report and Order attains a reasonable balancing of the relevant regulatory, technical and policy concerns. AMT and DSST suggest that the concerns of those Petitioners that the allocation decision may not match initial market conditions may be at least partially addressed by

incorporating sufficient flexibility both into the auction process and into the service rules to enable licensees to rapidly respond to market conditions. In this respect, AMT and DSST favor the adoption of service rules that would enable PCS licensees to partition or lease their system capacity either on a geographic or spectrum basis upon notice to the Commission.

Respectfully submitted,

ADVANCED MOBILECOMM TECHNOLOGIES, INC.
DIGITAL SPREAD SPECTRUM TECHNOLOGIES,
INC.

By: 
Robert B. Kelly

KELLY, HUNTER, MOW & POVICH, P.C.
Seventh Floor
1133 Connecticut Ave., N.W.
Washington, D.C. 20036
(202) 466-2425

THEIR COUNSEL

January 3, 1994

CERTIFICATE OF SERVICE

I, Shiona Baum, hereby certify that a copy of the foregoing document was mailed, postage prepaid, this 3rd day of January, 1994, to the following parties:

International Transcription Service
Suite 140
2100 M Street, N.W.
Washington, D.C. 20037

Robert S. Foosaner, Esq.
Lawrence R. Krevor, Esq.
Nextel Communications, Inc.
601 13th Street, N.W.
Suite 1110 South
Washington, D.C. 20005

William B. Barfield
Jim O. Llewellyn
BellSouth Corporation
1155 Peachtree Street, N.E.
Atlanta, Georgia 30367-6000

Charles P. Featherstun
David G. Richards
BellSouth Cellular Corp.
1133 21st Street, N.W.
Suite 900
Washington, D.C. 20036

Scott K. Morris
McCaw Cellular Communications, Inc.
5400 Carillon Point
Kirkland, Washington 98033

R. Gerald Salemm
McCaw Cellular Communications, Inc.
1150 Connecticut Ave., N.W.
4th Floor
Washington, D.C. 20036

Carl W. Northrop
Bryan Cave
700 13th Street, N.W.
Washington, D.C. 20005

Philip L. Verveer
Willkie Farr & Gallagher
Three Lafayette Centre
1155 21st Street, N.W.
Washington, D.C. 20036

Michael F. Altschul
Cellular Telecommunications Industry
Association
Two Lafayette Centre, Third Floor
1133 21st Street, N.W.
Washington, D.C. 20036

Gary M. Epstein
Latham & Watkins
Suite 1300
1001 Pennsylvania Ave., N.W.
Washington, D.C. 20004

Ronald L. Plessner
Emilio W. Cividanis
Piper & Marbury
1200 19th Street, N.W.
Washington, D.C. 20036


Shiona Baum